

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT CURRY

Plaintiff,

vs.

UNITED PARCEL SERVICE, INC

AND

TEAMSTERS LOCAL 623

Defendants,

Civil Action No. 17-2331

ORDER

AND NOW, this ____ day of _____, 2017, upon consideration of Defendant Teamsters Local 623's motion for sanctions – seeking an award of attorneys' fees and costs, and the response thereto,

IT IS ORDERED that Local 623's motion for sanctions seeking attorney fees is GRANTED, and Matthew Weisberg is ORDERED to reimburse Local 623 for 35.10 hours of attorney work

BY THE COURT

J.

**UNITED STATES DISTRICT COURT
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Plaintiff,

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Defendants,

Civil Action No. 17-2331

**MEMORANDUM IN SUPPORT OF MOTION FOR SANCTIONS AGAINST ATTORNEY
WEISBERG, SEEKING ATTORNEY FEES**

Defendant Teamsters Local 623 (“Local 623”) submits this memorandum of law in support of its motion for sanctions, seeking attorneys’ fees. The within submission is pursuant to the Court’s August 30, 2017, order that Local 623 submit a fee petition detailing costs, expenses and attorneys’ fees incurred as of the date of Attorney Weisberg’s filing of an amended complaint in this case, which occurred on July 3, 2017. Local 623 submits this memorandum in support of its Fee Petition, which is appended as Exhibit A.

I. STATEMENT OF FACTS

Robert Curry was an employee of United Parcel Service and was terminated by the Company on April 22, 2015. Curry was a member of Teamsters Local 623. Plaintiff initiated this litigation in August 2016 (Curry I) asserting that he was wrongfully terminated by UPS, and that Local 623 had violated the

Duty of Fair Representation it owed to Curry. After motions to dismiss were filed, Curry voluntarily dismissed on January 24, 2017.

Curry then refiled his complaint on May 1, 2017 (Curry II) against UPS and Local 623 in the Pennsylvania Court of Common Pleas alleging wrongful discharge. Local 623 removed to this Court soon after, asserting that Curry's claim was preempted by Section 301 of the Labor Management Relations Act. Local 623 filed a Motion to Dismiss on June 13, 2017. Following Curry's Motion to Remand (June 22, 2017), Motion to Stay (June 26, 2017), and Motion for an Extension of Time (July 3, 2017), Curry filed "first" Amended Complaints on both July 3, 2017, and July 6, 2017. Local 623 responded to the Motion to Remand on July 6, 2017, and again filed a Motion to Dismiss on July 17, 2017. Local 623 also moved for sanctions on July 19, 2017. In response, Attorney Weisberg filed a Motion to Bifurcate, a Notice of Supplemental Authority, and he opposed the motion to dismiss and for sanctions. Local 623 responded on August 3, 2017.

The Court subsequently scheduled the case for a hearing and issued an Order to Show Cause why Plaintiff should not be required to pay Local 623's costs, expenses and reasonable attorney fees pursuant to 28 U.S.C. § 1927, which provides that "[a]ny attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct."

Local 623 submits the following fee petition to the Court.

A. Attorney Background

Lisa Leshinski is a 1995 graduate of the University of North Carolina at Chapel Hill (B.A., 1991), and a 2005 graduate of Rutgers University School of Law (J.D., 2005). Prior to and while attending law school she worked as labor union representative and organizer. She has been practicing

law for the last 12 years. She is licensed to practice in the Commonwealth of Pennsylvania, the State of New Jersey, United States District Courts for the Eastern District of Pennsylvania and District of New Jersey, and the United States Courts of Appeals for the Third Circuit and the D.C. Circuit. She has exclusively practiced union-side labor and employment law, practicing for four years with Freedman and Lorry, PC, and for seven years as in-house counsel to a labor union.

B. Hourly Rate

The work in this case was performed pursuant to the terms of a retainer agreement with the Union. Under the agreement, litigation is billed to the Union at a rate of \$300 per hour. This is a blended rate applicable for any attorney work on a case. A low rate is charged to the Union because of the organization's modest resources.

Because Freedman and Lorry, PC does not charge a market rate for the legal services that it provides to Local 623, Local 623 seeks enhanced attorney fees.

Local 623 should be compensated in the amount of \$380 per attorney hour for Ms. Leshinski's work in this matter. See Bakery, Confectionary, Tobacco Workers & Grain Millers Int'l Union v. Morabito Baking Co., No. 10-CV-5141, 2012 WL 4050796, at *2 (E.D. Pa. Sept. 14, 2012)(holding that union attorneys may have their fees adjusted to a rate higher than the rate it charges to union clients). In Morabito the court awarded enhances fees to union-side lawyers, extending to them the general principle that "public interest law firms that typically charge clients below market fees, or no fees at all, are nonetheless entitled to compensation based on prevailing market rates in the relevant community." Id. at *2.

In support, and appended as Exhibit B is the fee schedule used by Philadelphia Community Legal Services in cases in which the law allows for the award of attorney's fees from opposing parties. The schedule provides that attorneys with 11-16 years of experience are compensated at a rate of \$360-

\$440 per hour. See Maldonado v. Houstoun, 256 F.3d 181, 187 (3d Cir.2001) (approving of the fee schedule published by Community Legal Services in Philadelphia).

II. CONCLUSION

Local 623 respectfully requests that this Court order its fees for the period from July 3, 2017, September 13, 2017, to be paid by Attorney Weisberg, in the amount of \$380 per hour for 35.1 hours of attorney work, a total amount of \$13,338.00

Respectfully submitted,

/S/ Lisa Leshinski
LISA LESHINSKI
PA Attorney I.D. No. 201159
1601 Market Street, Suite 1500
Philadelphia, PA 19103
(215) 931-2557

Attorneys for Defendant International Brotherhood of Teamsters,
Local 623

Dated: September 14, 2017

CERTIFICATE OF SERVICE

I hereby state that the foregoing Fee Petition was served via ECF system upon the following parties on the date indicated below:

Matthew Weisberg, Esq.
Weisberg Law
7 South Morton Avenue
Morton, Pennsylvania 19070

Gary M. Tocci, Esq.
Molly Q. Campbell, Esq.
Reed Smith LLP
Three Logan Square
1717 Arch Street, Suite 3100
Philadelphia, PA 19103
Counsel for UPS

/s/ Lisa C. Leshinski
LISA C. LESHINSKI, ESQUIRE

Attorney for Defendant International Brotherhood
of Teamsters, Local 623

Dated: September 14, 2017

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT CURRY

Plaintiff,

vs.

UNITED PARCEL SERVICE, INC

AND

TEAMSTERS LOCAL 623

Defendants,

Civil Action No. 17-02331

TO THE HONORABLE GERALD J. PAPPERT:

The following is Defendant, International Brotherhood of Teamsters Local 623, Counsel's Fee Petition with respect to all work performed in connection with the above-captioned matter from July 3, 2017 to the present time.

<u>Date</u>	<u>Description</u>	<u>Time</u>
07/05/17	Reviewed amended complaint. Drafted response to motion to remand and stay.	2.10
07/06/17	Drafted opposition to motion to remand and e-filed	3.30
07/10/17	Reviewed emails from Atty Weisberg seeking extension of time, and reviewed cases he cited concerning wrongful discharge. Drafted letter.	1.80
07/17/17	Drafted motion to Dismiss and started drafting motion for Sanctions	4.70
07/18/17	Drafted motion for sanctions	1.80
07/19/17	Drafted motion for sanctions and e-filed	1.90

<u>Date</u>	<u>Description</u>	<u>Time</u>
07/25/17	Reviewed Plaintiff's filings seeking a stay and moving to bifurcate	0.30
07/26/17	Researched cases cited by Curry	0.70
07/28/17	Reviewed additional filings by Plaintiff	0.80
07/31/17	Drafted reply in support of motion to dismiss	1.80
08/03/17	Drafted reply in support of motion to dismiss and e-filed	4.00
08/09/17	Reviewed Judge's Order and discussed with client	0.20
08/16/17	Preparation for oral argument and court attendance. Reviewed case law cited by Atty. Weisberg at oral argument (Herring v. Prince Macaroni)	5.00
08/18/17	Talked to client about case. Discussed with UPS attorneys.	1.40
08/31/17	Reviewed Judge's decisions and emailed and called Union.	1.30
9/12/17	Drafted fee petition	4
TOTAL:		35.10

[35.10 hours] x \$380.00 per hour (attorney time) = \$13,338.00

TOTAL ATTORNEYS' FEES REQUESTED BY DEFENDANT'S, INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 623 COUNSEL: \$13,338.00

Respectfully submitted,

FREEDMAN AND LORRY, P.C.

/s/ Lisa C. Leshinski
LISA C. LESHINSKI, ESQUIRE

Dated: September 14, 2017

EXHIBIT B

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Attorney Fees

Explanatory Notice to the Public

CLS never charges attorney's fees to its clients, although in some cases clients are asked to pay for court filing fees or other out of pocket expenses.

The attached chart lists the fee schedule used by CLS only in cases in which the law allows for the award of attorney's fees from opposing parties in order to compensate CLS for the legal services provided to its clients.

RANGE OF HOURLY RATES*, Effective February 15, 2017

Attorneys post-law school experience under 2 years	\$180-200
Attorneys 2-5 year's experience	\$220-255
Attorneys 6-10 year's experience	\$270-340
Attorneys 11-15 year's experience	\$360-440
Attorneys 16-20 year's experience	\$450-510
Attorneys 21-25 year's experience	\$520-570
Attorneys more than 25 year's experience	\$620-650
Law Students	\$90-145
Paralegal I and II	\$115-140
Senior and Supervisory Paralegal	\$140-165

*These rates do not reflect any adjustment for contingency, and are based on Philadelphia law firm market survey data and increases in the Consumer Price Index.

THESE FEES ARE NOT CHARGED TO CLS CLIENTS. SEE NOTICE ABOVE.

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